

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

GILBERT PETERS,

Plaintiff,

Case No. 05-60221

v.

Honorable John Corbett O'Meara

OFFICE OF SECRETARY OF VETERANS
AFFAIRS and ASSISTANT LOAN
GUARANTY OFFICER J. J. HANLEY, JR.,

Defendants.

ORDER GRANTING DEFENDANTS' OCTOBER 25, 2005 MOTION TO DISMISS

This matter came before the court on Defendants' October 25, 2005 motion to dismiss. Plaintiff Gilbert Peters filed a response November 30, 2005. No reply was filed and no oral argument was heard.

Plaintiff Peters filed suit against Defendants seeking declaratory and injunctive relief to qualify for a Veterans Affairs ("VA") housing loan that he had been administratively denied. Peters alleges that he was honorably discharged from the United States Armed Forces on January 4, 1974, following active duty service from November 26, 1973, through January 4, 1974.

In order for a veteran of the Vietnam era (February 28, 1961, through May 7, 1975) to be eligible for VA loan benefits, he or she must have total active duty service of 90 days or more. See 38 U.S.C. §§ 101(29), 3702(a)(2)(A). By his own admission, plaintiff Peters had only 40 days of active duty. Therefore, he does not qualify for loan benefits under the VA's statutory scheme.

ORDER

It is hereby **ORDERED** that Defendants' October 25, 2005 motion to dismiss is **GRANTED**.

s/John Corbett O'Meara
John Corbett O'Meara
United States District Judge

Dated: January 18, 2006